

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

KEVIN MILNES)	CIV NO. 02-00365 BMK
)	
Plaintiff,)	ORDER RE DISCOVERY
)	DISPUTE
vs.)	
)	
UNITED STATES OF AMERICA;)	
and TRIPLER ARMY MEDICAL)	
CENTER,)	
)	
Defendants.)	
)	
_____)	

ORDER RE DISCOVERY DISPUTE

The parties have asked the Court to resolve a discovery dispute, namely, the extent to which Defendants are obligated to pay Dr. Halford the deposition fee he requests. Dr. Halford was deposed by Defendants on June 21, 2007. Dr. Halford requests that he be paid at the rate of \$500 per hour for 1.25 hours of deposition time and \$350 per hour for the 4 hours he spent preparing for the deposition, for a total of \$2,025. Defendants have expressed a willingness to pay for the time Dr. Halford was actually deposed, but object to having to pay for Dr. Halford’s preparation time.

Rule 26 of the Federal Rules of Civil Procedure governs depositions and discovery. Rule 26(b)(4)(C) provides that “[u]nless manifest injustice would

result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under this subdivision” Fed. R. Civ. P. Rule 26(b)(4)(C). This Court has previously held that a “reasonable fee” can include reasonable time spent preparing for a deposition. Mock v. Johnson, 218 F.R.D. 680, 683 (D. Haw. 2003). This interpretation of Rule 26(b)(4)(C) has been followed by many other courts throughout the country. See, e.g. Lent v. Fashion Mall Partners, 223 F.R.D. 317, 318 (S.D.N.Y. 2004) (holding that “Rule 26(b)(4)(C) clearly contemplates remuneration for time spent responding to discovery requests, which would include reasonable preparation for a deposition”); Collins v. Village of Woodridge, 197 F.R.D. 354, 356 (N.D. Ill. 1999) (finding that “the expert’s reasonable fees for preparation time are recoverable”).

Courts have broad discretion to determine whether the fee charged for deposition time and preparation is “reasonable.” See Goldwater v. Postmaster General of the United States, 136 F.R.D. 337, 339 (D. Conn. 1991). Here, the Court finds that the total fee of \$2,025 charged by Dr. Halford for 1.25 hours of deposition and 4 hours of preparation is quite reasonable given his qualifications, the complexity of this case, and his uncertainty as to how long the deposition might last. Defendants have shown no manifest injustice that might result if they are

forced to pay \$2,025 to Dr. Halford. Accordingly, Defendants are hereby ordered to pay Dr. Halford his requested fee.

IT IS SO ORDERED.



/s/ Barry M. Kurren
United States Magistrate Judge
Dated: July 18, 2007

Milnes v. United States of America; Civ. No. 02-365 BMK; ORDER RE DISCOVERY DISPUTE.